

Order

**Michigan Supreme Court
Lansing, Michigan**

Entered: January 23, 2002

Maura D. Corrigan,
Chief Justice

01-29

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of
Rule 702 of the Michigan
Rules of Evidence

On order of the Court, this is to advise that the Court is considering an amendment of Rule 702 of the Michigan Rules of Evidence. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment. The Court welcomes the views of all who wish to address the form or the merits of the proposal or to suggest alternatives. Before adoption or rejection, the proposal will be considered by the Court at a public hearing. Notice of future public hearings will be provided by the Court and posted on the Court's website, www.supremecourt.state.mi.us.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The present language of Rule 702 would be
amended as indicated below.]

Rule 702 Testimony by Experts

If the court determines that recognized scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. If MCL 600.2955 requires either admitting or excluding the expert testimony, the court must rule as the statute requires.

Staff Comment: The proposed amendment of MRE 702 would conform the rule to *McDougall v Schanz*, 461 Mich 15 (1999), which held that a substantive rule of law found in a statute takes precedence over a rule of evidence adopted by the courts.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court clerk in writing or electronically by *May 1, 2002*. P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@jud.state.mi.us. When filing a comment, please refer to file **01-29**.